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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

CHASOM BROWN, WILLIAM BYATT,  
JEREMY DAVIS, CHRISTOPHER  
CASTILLO, and MONIQUE TRUJILLO,  
individually and on behalf of all similarly  
situated,

Plaintiffs,

v.

GOOGLE LLC,  
Defendant.

Case No. 5:20-cv-03664-LHK-SVK

**[JOINT PROPOSED] ORDER LIMITING  
ONGOING DISCOVERY**

Referral: Hon. Susan van Keulen, USMJ

**[JOINT PROPOSED] ORDER**

Before the Court is the parties' Joint Discovery Submission. Having considered the parties' statements and other papers on file, and good cause having been found, the Court **ORDERS** as follows:

1. *Interrogatories.*

Plaintiffs' Proposal: Unless otherwise stipulated or ordered by the Court, a party may serve no more than 50 interrogatories, including all discrete subparts. Fed. R. Civ. P. 33. As of the date of this Order, Google has not yet provided any responses to Interrogatory Nos. 8 and 11 through 17, including on the basis of the parties' dispute about counting interrogatories (Dkt. 281, P13). Google shall provide responses to those interrogatories within 10 business days of this Order, and the responses may not include objections on the ground that Plaintiffs have exceeded the interrogatory limit. For purposes of the 50-interrogatory limit, Plaintiffs' first 17 interrogatories shall be counted as 19 interrogatories. Going forward, Google may not object to an interrogatory on relevance grounds, and then proceed to count that interrogatory against the limit. (*E.g.*, Interrogatory No. 11, which Google purports to count as 4 interrogatories despite refusing to respond).

Defendant's Proposal: Unless otherwise stipulated or ordered by the Court, a party may serve no more than 25 interrogatories, including all discrete subparts. *See* Fed. R. Civ. P. 33. As of the date of this Order, Plaintiffs have served six sets of interrogatories comprising 17 requests excluding discrete subparts, and 27 requests including discrete subparts. To resolve their counting dispute (Dkt. 281, P13), Plaintiffs' Interrogatory Nos. 2 and 3 shall count as two interrogatories each, Interrogatory Nos. 10 and 11 shall count as four interrogatories each, and Interrogatory No. 13 shall count as three interrogatories, amounting to 27 total interrogatories. Consistent with Rule 33's limit of 25 interrogatories, Google will supplement its objections and responses to Plaintiffs' Sixth Set of Interrogatories (Interrogatory Nos. 8, 12-17) after Plaintiffs identify two interrogatories from this set to be withdrawn. Plaintiffs shall identify such interrogatories within two (2) business

1 days of this Order, and Google shall answer such interrogatories ten (10) business  
2 days later. Plaintiff shall not serve additional interrogatories without leave of the Court.

3 **2. *Requests for Admission.***

4 Joint Proposal: Absent a showing of good cause, each party shall be limited to 75 Requests  
5 for Admission (“RFAs”). This limit shall not apply to RFAs to authenticate documents or otherwise  
6 used to admit evidence.

8 **3. *Resolving Outstanding Requests for Production.***

9 Plaintiffs’ Proposal: By October 12, 2021, Plaintiffs are to identify 40 Requests for  
10 Production (“RFPs”) from among the 66 RFPs in their Sixth and Seventh Sets of RFPs for  
11 prioritization (the “Prioritized RFPs”). The parties agree to meet and confer in good faith  
12 concerning the Prioritized RFPs, including a production and privilege log timeline, and seek Court  
13 intervention in the event they reach an impasse.

14 Defendant’s Proposal: By October 12, 2021, Plaintiffs are to identify 20 Requests for  
15 Production (“RFPs”) from among the 66 RFPs in their Sixth and Seventh Sets of RFPs, which,  
16 counting all discrete subparts, contain 141 requests (the “Limited RFPs”). The parties agree to meet  
17 and confer in good faith concerning these Limited RFPs, including a production and privilege log  
18 timeline, and seek Court intervention in the event they reach an impasse. For the remaining RFPs,  
19 Google’s Responses and Objections shall stand.

21 **4. *Future Requests for Production.***

22 Plaintiffs’ Proposal: The parties may not serve more than 25 new RFPs after the date of  
23 entry of this order. The time to respond or object to new RFPs under Fed. R. Civ. P. 34(b)(2)(A) is  
24 hereby shortened to fourteen (14) days from service, and the parties shall meet-and-confer in person  
25 or via video conference within three (3) business days of service of the objections and responses  
26 and conclude negotiations within seven (7) business days.

1        Defendant's Proposal: Plaintiffs have propounded 235 RFPs across seven sets of requests  
2 served between September 2020 and September 2021, which, counting all the subparts, contain 337  
3 requests. As of the date of this Order, Google has produced over 5.3 million pages of documents. In  
4 light of such "existing discovery," the parties must meet-and-confer in good faith in person or via  
5 video conference within three (3) business days should Plaintiffs wish to serve additional RFPs, and  
6 promptly seek Court intervention (before any such RFPs are formally served) in the event of  
7 impasse.

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9            5. *Last-in-Time Emails.*

10        Joint Proposal: For all custodians and email productions, Google shall produce last-in-  
11 branch emails, including email messages with non-duplicative attachments, so that Plaintiffs receive  
12 all non-privileged, responsive email content. Google will not be required to produce wholly  
13 duplicative earlier-in-branch emails, except that, for any noticed deponent, Google shall also  
14 produce all custodial earlier-in-branch emails and attachments no later than one week before the  
15 deposition, provided that the deposition is noticed at least three weeks in advance of the deposition  
16 date.

17  
18            6. *Search Terms.*

19        Joint Proposal: The parties agree to meet and confer in good faith should Plaintiffs wish to  
20 seek any additional, targeted search terms, and seek Court intervention in the event they reach an  
21 impasse.

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23            7. *Custodians.*

24        Joint Proposal: The Court has imposed a cap of 42 Google custodians. Absent a Court  
25 order, where Plaintiffs would need to show good cause and Google permitted an opportunity to  
26 respond, the parties will not add any custodians.

27            8. *Depositions.*  
28

1        Plaintiffs' Proposal: Considering the parties' arguments in the prior submission (Dkt. 281  
2 at 9, P17), Plaintiffs' prior 30(b)(6) depositions of Jesse Adkins and Glenn Bernston were taken  
3 pursuant to Court order and shall not be counted against the 20 deposition limit ordered by the Court,  
4 and Plaintiffs therefore have 19 additional depositions.

5        Google's Proposal: Considering the parties' arguments in the prior submission (Dkt. 281 at  
6 9-12, P17), Plaintiffs' Rule 30(b)(6) depositions of Jesse Adkins and Glenn Bernston count towards  
7 the 20 deposition limit per this Court's August 12 Order (Dkt. 242-1 at 2) because neither deposition  
8 was taken pursuant to this Court's prior orders. Plaintiffs therefore have 17 additional depositions.  
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12        **SO ORDERED.**

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14        DATED: \_\_\_\_\_

15        \_\_\_\_\_  
16        HON. SUSAN VAN KEULEN  
17        United States Magistrate Judge  
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1 DATED: October 8, 2021

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1  
2 DATED: October 8, 2021

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